

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

Plaintiff(s),
vs.
Defendant(s),

CASE NO. 3AN- S187

SUMMONS AND
NOTICE TO BOTH PARTIES
OF JUDICIAL ASSIGNMENT

To Defendant:

You are hereby summoned and required to file with the court a written answer to the complaint which accompanies this summons. Your answer must be filed with the court at 825 W. 4th Ave., Anchorage, Alaska 99501 within 20 days* after the day you receive this summons. In addition, a copy of your answer must be sent to the plaintiff's attorney or plaintiff (if unrepresented) whose address is:

If you fail to file your answer within the required time, a default judgment may be entered against you for the relief demanded in the complaint.

If you are not represented by an attorney, you must inform the court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing address and telephone number. You may use court form *Notice of Change of Address / Telephone Number* (TF-955), available at the clerk's office or on the court system's website at www.courts.alaska.gov/forms.htm, to inform the court. - OR - If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(i).

NOTICE OF JUDICIAL ASSIGNMENT

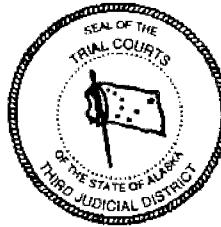
TO: Plaintiff and Defendant

You are hereby given notice that:

- This case has been assigned to Superior Court Judge J. VANDERKAM and Master _____.
- This case has been assigned to District Court Judge _____.

CLERK OF COURT

Date



By:

J. VANDERKAM
Deputy Clerk

I certify that on 3-18-14 a copy of this Summons was mailed given to
 plaintiff plaintiff's counsel along with a copy of the
 Domestic Relations Procedural Order Civil Pre-Trial Order
to serve on the defendant with the summons.

Deputy Clerk J. VANDERKAM

* The State or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

THOMAS C. ASZMUS,)
vs.)
Plaintiff,)
JAY R. McINNIS, and FARMERS')
INSURANCE GROUP OF)
COMPANIES,)
Defendants.) Case No. 3AN-14-8187 CI

)

COMPLAINT

COMES NOW the Plaintiff, Tom Aszmus, by and through counsel of record, and for his Complaint against Defendants Jay R. McInnis and Farmers' Insurance Group of Companies, states as follows:

1. Plaintiff Thomas C. Aszmus ("Aszmus") is a resident of the State of Alaska.
2. Unless otherwise noted, the events in this action occurred in the Third Judicial District such that venue is appropriate.
3. It is Plaintiff's information and belief that the Farmers' Insurance Group of Companies ("Farmers' Insurance") does business in Alaska such that jurisdiction by an Alaska court is appropriate.
4. It is Plaintiff's information and belief that this matter arises out of acts and omissions of Defendant Jay R. McInnis ("McInnis") related to events in Alaska such that jurisdiction by an Alaska court is appropriate.

Aszmus v. Farmers Ins Co., Case No. 3AN-14-8187 CI
Complaint, Page 1 of 4

5. On or about October 7, 2010, Plaintiff Aszmu was injured in a motor vehicle accident as a result of the negligence of Matthew K. Avery ("Avery") and brought suit against Avery in the action entitled Aszmu v. Avery, Case No. 2KB-11-210 CI filed in Kotzebue, Alaska. A true and correct copy of the Complaint in the action is attached as Exhibit A to this Complaint.

6. It is Aszmu's information and belief that Defendant McInnis was an agent of Defendant Farmers' Insurance, that Defendant McInnis sold Avery a motor vehicle insurance policy, Number G0034678880, issued by Defendant Farmers' Insurance, and that McInnis' actions were at all times in the course and scope of his agency relationship with Defendant Farmers' Insurance.

7. It is Aszmu's information and belief that the Policy Number G0034678880 provided coverage for the October 7, 2010 motor vehicle accident and Avery's liability in the Aszmu v. Avery action, including but not limited a duty to defend Avery from the allegations made by Aszmu in that action.

8. It is Aszmu's information and belief that Avery tendered defense of the action to Defendant Farmers Insurance through its agent, Defendant McInnis. A true and correct copy of this tender is attached as Exhibit B to this Complaint.

9. It is Aszmu's information and belief that neither Defendant Farmers' Insurance nor Defendant McInnis acknowledged such tender.

10. Defendant Farmers' Insurance failed to defend Avery in the Aszmu v. Avery action, breaching its duties to Avery under Policy Number G0034678880.

11. In order to mitigate the consequences of this failure to defend, Avery entered into a settlement in which he agreed to confess Judgment in favor of Plaintiff Aszmus in the amount of \$3,581,371.85 and assigned his rights against Defendants Farmers Insurance and Defendant McInnis. A true and correct copy of this Settlement Agreement is attached as Exhibit C to this Complaint. Pursuant to the Settlement Agreement, judgment has been entered against Avery. A true and correct copy of this Judgment is attached as Exhibit D to this Complaint.

SECOND CAUSE OF ACTION AGAINST FARMERS' INSURANCE AND MCCINNIS BREACH OF FIDUCIARY DUTY

12. Plaintiff realleges and incorporates by reference the allegations of Paragraphs 1 through 11 of this Complaint.

13. By virtue of their sale of the Policy Number G0034678880 to Avery, Defendants Farmers' Insurance and Defendant McInnis owed Avery a fiduciary duty to respond to his tender.

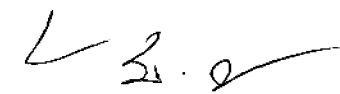
14. The failure of Defendant Farmers' Insurance and Defendant McInnis to respond to Avery's tender constitutes a breach of this fiduciary duty such that they are liable for Avery's losses, including but not limited to the unsatisfied portion of the \$3,581,371.85 judgment and any non-economic loss associated with such breach.

Wherefore, Plaintiff requests the following relief:

1. A judgment against Defendants Farmers' Insurance and McLanis in the amount of Avery's losses.
2. Aszmus' attorneys' fees and costs associated with this action.
3. Such other relief as the Court deems appropriate.

DATED at Anchorage, Alaska this 18 day of July, 2014.

LAW OFFICES OF MARC JUNE
Attorneys for Plaintiff

By: 
Marc W. June
ABA# 8011091\

Law Offices of Marc June
807 G Street, Suite 150
Anchorage, Alaska 99501
Telephone 907-277-5234 Facsimile 907-277-9120

Aszmus v. Farmers Ins Co., Case No. 3AN-14-8187 Cl
Complaint, Page 4 of 4

EXHIBIT A

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
SECOND JUDICIAL DISTRICT AT KOTZEBUE

THOMAS C. ASZMUS,) FILED in the Trial Courts
vs.) State of Alaska, Second District,
Plaintiff,) At KOTZEBUE
MATTHEW K. AVERY,) AUG 29 2011
Defendant.) Clerk of the Trial Courts
Case No. 2KB-11-210 CI

COMPLAINT

COMES NOW the Plaintiff, Tom Aszmus, by and through counsel of record, and for his Complaint against Defendant Matthew K. Avery, states as follows:

**FIRST CAUSE OF ACTION
NEGLIGENCE**

1. Plaintiff Thomas C. Aszmus ("Aszmus") is a resident of the state of Alaska.
2. It is Plaintiff's information and belief that Defendant Matthew K. Avery ("Avery") is a resident of the state of Alaska.
3. It is Plaintiff's information and belief that Alaska Interstate Construction, LLC ("AIC") is a corporation doing business in Alaska.
4. This matter arises out an incident in Kotzebue, Alaska such that venue is proper.
5. On or about October 7, 2010, Plaintiff Aszmus was employed by AIC to perform work in Kotzebue, Alaska. On or about October 7, 2010, at a time outside of

Law Offices of Marc June
807 G Street, Suite 150
Anchorage, Alaska 99501
Telephone 907-277-5234 Facsimile 907-277-9120

Aszmus v. Avery, Case No. 2KO-11-210 CI
Complaint, Page 1 of 3

EXHIBIT A
PAGE 1 OF 3
Exhibit 1, Page 7 of 33

working hours, Plaintiff Aszmu was a passenger in a motor vehicle described as a "Yamaha Rhino" operated by Defendant Avery.

6. Defendant Avery negligently operated the "Yamaha Rhino" causing the vehicle to overturn. Such negligence includes, but is not limited to, being intoxicated, driving recklessly and driving without due regard to speed, the road conditions, and the driving characteristics of the vehicle.
7. As a result of such negligence, Plaintiff Aszmu suffered serious injury, including but not limited to his right arm.
8. As a result of such negligence, Plaintiff Aszmu has been damaged in the form of past and future medical expenses, past and future loss of income and non-economic loss in an amount to be proven at trial but in excess of \$100,000.

SECOND CAUSE OF ACTION PUNITIVE DAMAGES AGAINST AVERY

9. Plaintiff realleges and incorporates by reference the allegations of Paragraphs 1 through 10 above.
10. At all relevant times, Defendant Avery acted recklessly and with extreme indifference to the safety of others such that punitive damages are appropriate. Such actions include but are not limited to being intoxicated.

PRAYER FOR RELIEF

WHEREFORE Plaintiff Aszmu requests the following relief:

1. A judgment against defendant in an amount to be proven at trial but in excess of \$100,000.

2. Prejudgment interest, costs, and full attorneys' fees pursuant to AS 09.60.070.
3. Such other relief as the Court deems appropriate.

DATED at Anchorage, Alaska this 22 day of August, 2011.

LAW OFFICES OF MARC JUNE
Attorneys for Plaintiff

By: 
Marc W. June
ABA# 8011091

Law Offices of Marc June
807 G Street, Suite 150
Anchorage, Alaska 99501
Telephone 907-277-5234 Facsimile 907-277-9120

Aszmus v. Avery, Case No. 2KO-11-_____ CI
Complaint, Page 3 of 3

EXHIBIT A
Case 3:14-cv-00166-SLG Document 1-1 Filed 09/02/14 Page PAGE 3 OF 3
Exhibit 1, Page 9 of 33

EXHIBIT B

**INGALDSON, MAASSEN &
FITZGERALD, P.C.**
Lawyers

*Peter J. Maassen
William H. Ingaldson
Kevin T. Fitzgerald
Stuart C. Rader
Jim M. Boardman*

*813 West Third Avenue
Anchorage, Alaska 99501-2001
Telephone (907) 258-8750 Facsimile (907) 258-8751*

April 27, 2012

**VIA CERTIFIED MAIL, RETURN RECEIPT
REQUESTED AND VIA FACSIMILE: 480-813-2731**

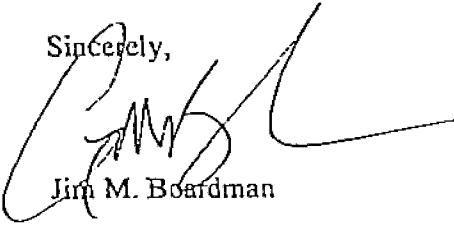
Jay R. McInnis, LUTCF
522 N. Gilbert Rd., # 106
Gilbert, AZ 85234

Re: *Aszmus v. Avery*
DOL: 10-7-2010
Claimant: Thomas C. Aszmus
Policy No. G00 3467888 00
Our File No.: 0074.003

Dear Mr. McInnis:

Our client Matthew K. Avery was recently served with a complaint in the above captioned matter. Mr. Avery was sued by a passenger that was traveling with him as a result of an auto accident. A copy of the complaint is attached. We would appreciate it if you could forward the complaint to the carrier for the above policy and we request that Farmers defend and indemnify Mr. Avery in the above lawsuit as he is a named insured on the policy. If you have any questions, please don't hesitate to contact me.

Sincerely,


Jim M. Boardman

JMB:car

Enclosure
cc w/encl.: Matt Avery
Marc June

EXHIBIT B

PAGE 1 OF 4

Case 3:14-cv-00166-SLG Document 1-1 Filed 09/02/14 Page 11 of 33 Exhibit 1, Page 11 of 33

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

SECOND JUDICIAL DISTRICT AT KOTZEBUE

THOMAS C. ASZMUS,

Plaintiff,

vs.

MATTHEW K. AVERY,

Defendant.

COPYCase No. 2KO-11-0021 ET Cl

COMPLAINT

COMES NOW the Plaintiff, Tom Aszmus, by and through counsel of record, and for his Complaint against Defendant Matthew K. Avery, states as follows:

**FIRST CAUSE OF ACTION
NEGLIGENCE**

1. Plaintiff Thomas C. Aszmus ("Aszmus") is a resident of the state of Alaska.
2. It is Plaintiff's information and belief that Defendant Matthew K. Avery ("Avery") is a resident of the state of Alaska.
3. It is Plaintiff's information and belief that Alaska Interstate Construction, LLC ("AIC") is a corporation doing business in Alaska.
4. This matter arises out an incident in Kotzebue, Alaska such that venue is proper.
5. On or about October 7, 2010, Plaintiff Aszmus was employed by AIC to perform work in Kotzebue, Alaska. On or about October 7, 2010, at a time outside of

Law Office of Marc June
 407 A Street, Suite 100
 Anchorage, Alaska 99501
 Telephone 907-277-5134 Facsimile 907-277-9120

Aszmus v. Avery, Case No. 2KO-11-_____ Cl
Complaint, Page 1 of 3

EXHIBIT B

PAGE 2 OF 10

working hours, Plaintiff Aszmus was a passenger in a motor vehicle described as a "Yamaha Rhino" operated by Defendant Avery.

6. Defendant Avery negligently operated the "Yamaha Rhino" causing the vehicle to overturn. Such negligence includes, but is not limited to, being intoxicated, driving recklessly and driving without due regard to speed, the road conditions, and the driving characteristics of the vehicle.
7. As a result of such negligence, Plaintiff Aszmus suffered serious injury, including but not limited to his right arm.
8. As a result of such negligence, Plaintiff Aszmus has been damaged in the form of past and future medical expenses, past and future loss of income and non-economic loss in an amount to be proven at trial but in excess of \$100,000.

**SECOND CAUSE OF ACTION
PUNITIVE DAMAGES AGAINST AVERY**

9. Plaintiff realleges and incorporates by reference the allegations of Paragraphs 1 through 10 above.
10. At all relevant times, Defendant Avery acted recklessly and with extreme indifference to the safety of others such that punitive damages are appropriate. Such actions include but are not limited to being intoxicated.

PRAYER FOR RELIEF

WHEREFORE Plaintiff Aszmus requests the following relief:

1. A judgment against defendant in an amount to be proven at trial but in excess of \$100,000.

Attnor v. Avery, Case No. 2KO-11-_____ CR
Complaint, Page 2 of 3

EXHIBIT B
PAGE 3 OF 6

2. Prejudgment interest, costs, and full attorneys' fees pursuant to AS 09.60.070.
3. Such other relief as the Court deems appropriate.

DATED at Anchorage, Alaska this 22 day of August, 2011.

LAW OFFICES OF MARC JUNE
Attorneys for Plaintiff

By:


Marc W. June
ABA# 8011091

Law Offices of Marc June
527 G Street, Suite 150
Anchorage, Alaska 99501
Telephone: 907-277-5234 Facsimile 907-277-9120

Airmag v. Avery, Case No. 2KO-11-_____ CI
Complaint, Page 3 of 3

EXHIBIT B

PAGE 14 OF 33
Exhibit 1, Page 14 of 33

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. 6-10

- Sender: Please print your name, address, and ZIP+4 in this box •

Jim M. Boardman
Ingalsson, Maassen & Fitzgerald
813 W. 3rd Ave.
Anchorage, AK 99501

74-3

EXHIBIT B
PAGE 5 OF 6

SENDER: COMPLETE THIS SECTION

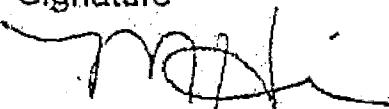
- Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

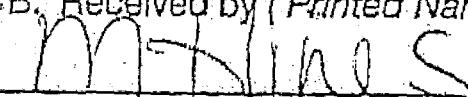
Jay R. McInnis LUTCF
 522 N. Gilbert Rd #106
 Gilbert, AZ 85234

COMPLETE THIS SECTION ON DELIVERY

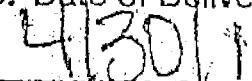
A. Signature

 Agent Addressee

B. Received by (Printed Name)



C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below:

 No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.4. Restricted Delivery? (Extra Fee) Yes

2. Article Number

(Transfer from service label)

7010 1870 0001 0421 1405

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

12/1

3 p.m.

03-10-2014

7/7

EXHIBIT B

PAGE 16 OF 16
Exhibit 1, Page 16 of 33

EXHIBIT C

4/25

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
SECOND JUDICIAL DISTRICT AT KOTZEBUE

THOMAS C. ASZMUS,)
Plaintiff,)
vs.)
MATTHEW K. AVERY,)
ALASKA INTERSTATE)
CONSTRUCTION, LLC)
Defendants.)

MATTHEW K. AVERY,) Case No. 2KB-11-210 CI
Third-Party Plaintiff,)
vs.)
YAMAHA MOTOR CORPORATION,)
USA., YAMAHA MOTOR)
MANUFACTURING CORPORATION)
OF AMERICA AND YAMAHA)
MOTOR CO., LTD.,)

Third-Party Defendants.)

SETTLEMENT AGREEMENT

This is a Settlement Agreement entered into between Plaintiff Thomas C. Aszmus ("Aszmus") and Defendant Matthew K. Avery ("Avery"). In entering into the Settlement Agreement, the parties acknowledge that the following facts are true.

Aszmus v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

Page 1 of 6

EXHIBIT C

Recitals

1. Aszmus was seriously injured in a motor vehicle accident occurring on or about October 7, 2010.
2. The motor vehicle accident was caused by the negligence of Avery.
3. Aszmus subsequently brought suit against Avery in an action entitled Aszmus v. Avery et al, Case No. 2KB-11-210 CI.
4. Avery believes he had motor vehicle insurance coverage through a Farmers' Insurance Group of Companies purchased through Agent Jay R. McInnis, LUTCF, 522 N. Gilbert Rd, # 106, Gilbert, AZ. 85234, Policy Number G00346788800 or a policy subsequently purchased through the same agent.
5. Avery tendered defense of Aszmus v. Avery et al, Case No. 2KB-11-210 CI by certified mail, restricted delivery to Farmers' Insurance c/o Agent Jay R. McInnis.
6. Neither Jay R. McInnis nor any representative of the Farmers' Insurance Group of Companies ever acknowledged Avery's tender of defense or made any attempt to defend Avery against the allegations made in Aszmus v. Avery et al, Case No. 2KB-11-210 CI.
7. In defending the claims made against him in Aszmus v. Avery et al, Case No. 2KB-11-210 CI, Avery has been represented by counsel and has had adequate and full opportunity to fully assess his liability in Aszmus v. Avery et al, Case No. 2KB-11-210 CI and Aszmus' losses resulting from Avery's actions.
8. The claims against Avery were defended under reservation of rights by Colony Insurance Company. Avery and Aszmus explicitly acknowledge that Colony Insurance Company has fully satisfied its defense and indemnity obligations.
9. Aszmus has entered into a Settlement Agreement and Release of All Claims with Alaska Interstate Construction, LLC. pursuant to which

Aszmus v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

Aszmu will be paid \$755,000 in partial satisfaction of Avery liability to Aszmu.

10. Aszmu and Avery wish to resolve the remainder of their dispute on the following terms.

Agreement

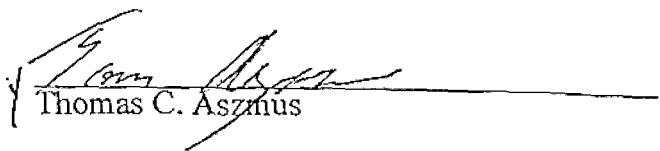
1. Avery agrees to confess judgment after action in favor of Aszmu in the amount of \$2,878,000, plus prejudgment interest, Alaska from October 7, 2010 through March 31, 2014, and Civil Rule 82 attorneys' fees. Avery acknowledges this amount to be 3,581,371.85 through March 31, 2014.
2. Aszmu agrees that, upon receipt of \$755,000 from Defendant Alaska Interstate Construction, LLC, the Restitution Order in 2KB-10-00584CR shall be deemed satisfied. Additionally, Aszmu covenants not to execute on the above Judgment against Avery or assign any right to execute on such Judgment to any other person or entity.
3. Avery hereby assigns whatever claims he may have in relation to the Farmers Insurance Group, Coast National Insurance Co., Jay R. McInnis LUTCF, and any other person or entity bearing legal responsibility for failing to defend Avery in Aszmu v. Avery et al, Case No. 2KB-11-210 CI. No claims are being assigned for the parties released in the Settlement Agreement and Release of All Claims with Alaska Interstate Construction, LLC.
4. Aszmu agrees to restrict further efforts to satisfy the Judgment to prosecution of the claims assigned in the preceding paragraph and further covenants not to execute against any other assets of Avery beyond the payment of \$755,000 by Defendant Alaska Interstate Construction, LLC.
5. The parties agree that time is of the essence in completing this Settlement Agreement and both Avery and Azmus agree to cooperate in preparing such additional documents as are necessary to carry out the intent of this Settlement Agreement.

Aszmu v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

6. Avery's current residence is 1442 West 25th Ave., Unit E, Anchorage, Alaska 99503. Avery's current phone number is (480) 266-8300. Avery's email address is kaleavery@hotmail.com. Avery agrees to advise Aszmu in the event of any change in this information.
7. Other than as stated in this Settlement Agreement, neither Aszmu nor Avery has made representations to the other party
8. This Settlement Agreement shall be construed according to Alaska law with jurisdiction and venue for any disputes being the Superior Court for the Third Judicial District of Alaska.
9. Aszmu agrees to defend, indemnify and hold harmless Avery, his attorneys, representatives and Colony Insurance Company from any claims, cross-claims, counterclaims, third-party claims or fault allocation proceedings directed against them in any way related to the assignment of claims against Farmers Insurance Group, Coast National Insurance Co., Jay R. McInnis LUTCF, and any other person or entity bearing legal responsibility for failing to defend Avery in Aszmu v. Avery et al, Case No. 2KB-11-210 CI.
10. This Settlement Agreement can be executed in counterparts.
11. This Settlement Agreement represents the complete agreement of the parties regarding resolution of claims asserted in Aszmu v. Avery et al, Case No. 2KB-11-210 CI.

Aszmu v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

DATED at Anchorage, Alaska this 8 day of April, 2014.


Thomas C. Aszmus

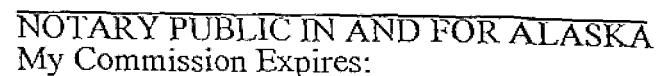
SUBSCRIBED AND SWORN to before me this 8 day April, 2014.


NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: 2/29/17

DATED at Anchorage, Alaska this _____ day of April, 2014.


Matthew K. Avery

SUBSCRIBED AND SWORN to before me this _____ day of April, 2014.

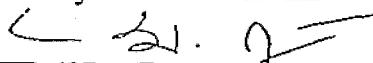

NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: _____

Aszmus v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

Law Offices of Marc June
807 G Street, Suite 150
Anchorage, Alaska 99501
Telephone 907-277-5234 Facsimile 907-277-9120

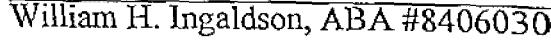
Approved as to Form.

Law Office of Marc June
Attorneys for the Plaintiff


Marc W. June, ABA #8011091

Approved as to Form.

Ingaldson, Fitzgerald, P.C.
Attorneys for the Defendant


William H. Ingaldson, ABA #8406030

Aszmus v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

Page 6 of 6

EXHIBIT C
PAGE 23 OF 33
Exhibit 1, Page 23 of 33

DATED at Anchorage, Alaska this _____ day of April, 2014.

Thomas C. Aszmu

SUBSCRIBED AND SWORN to before me this _____ day April, 2014.

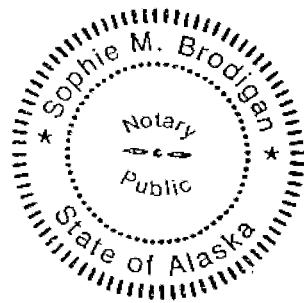
NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: _____

DATED at Anchorage, Alaska this 11th day of April, 2014.

Matthew K. Avery
Mathew K. Avery

SUBSCRIBED AND SWORN to before me this 11th day of April, 2014.

Sophie M. Brodigan
NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: 02/01/18



Aszmu v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

Law Offices of Marc June
807 G Street, Suite 150
Anchorage, Alaska 99501
Telephone 907-277-5234 Facsimile 907-277-9120

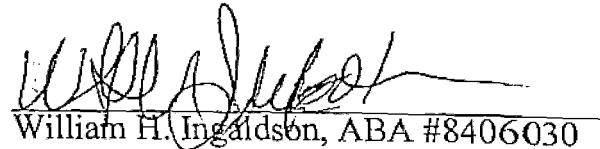
Approved as to Form.

Law Office of Marc June
Attorneys for the Plaintiff

Marc W. June, ABA #8011091

Approved as to Form.

Ingaldson, Fitzgerald, P.C.
Attorneys for the Defendant



William H. Ingaldson, ABA #8406030

Aszmuas v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

Law Offices of Marc June
807 G Street, Suite 150
Anchorage, Alaska 99501
Telephone 907-277-5234 Facsimile 907-277-9120

DATED at Anchorage, Alaska this _____ day of April, 2014.

Thomas C. Aszmu

SUBSCRIBED AND SWORN to before me this _____ day April, 2014.

NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: _____

DATED at Anchorage, Alaska this 25 day of April, 2014.


Matthew K. Avery

SUBSCRIBED AND SWORN to before me this 25th day of April, 2014.


NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: _____



Aszmu v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

Page 5 of 6

EXHIBIT C

Law Offices of Marc June
807 G Street, Suite 150
Anchorage, Alaska 99501
Telephone 907-277-5234 Facsimile 907-277-9120

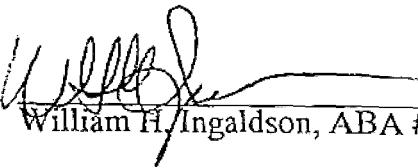
Approved as to Form.

Law Office of Marc June
Attorneys for the Plaintiff

Marc W. June, ABA #8011091

Approved as to Form.

Ingaldson, Fitzgerald, P.C.
Attorneys for the Defendant


William H. Ingaldson, ABA #8406030

Aszmuas v. Avery, Case No. 2KB-11-210 CI
Settlement Agreement

Page 6 of 6

EXHIBIT C
Case 3:14-cv-00166-SLG Document 1-1 Filed 09/02/14 Page 27 of 30 F 152
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EXHIBIT D

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

SECOND JUDICIAL DISTRICT AT KOTZEBUE

THOMAS C. ASZMUS,)
Plaintiff,)
vs.)
MATTHEW K. AVERY,)
ALASKA INTERSTATE)
CONSTRUCTION, LLC)
Defendants.)

MATTHEW K. AVERY,)
Third-Party Plaintiff,)
vs.)
YAMAHA MOTOR CORPORATION,)
USA., YAMAHA MOTOR)
MANUFACTURING CORPORATION)
OF AMERICA AND YAMAHA)
MOTOR CO., LTD.,)

Third-Party Defendants.)

Case No. 2KB-11-210 CI

Law Offices of Marc June
807 G Street, Suite 150
Anchorage, Alaska 99501
Telephone 907-277-5234 Facsimile 907-277-9120

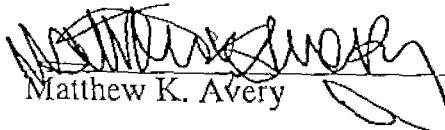
CONFESSTION OF JUDGMENT AFTER ACTION

Comes now, Matthew K. Avery, and hereby confesses judgment in favor of Plaintiff Thomas C. Aszmus in the amount of \$3,581,371.85, accruing interest at a rate of 3.75% annually from March 31, 2014.

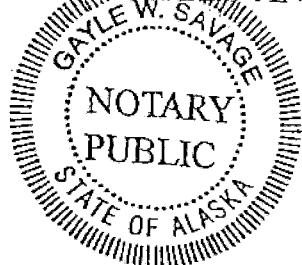
Aszmus v. Avery, Case No. 2KB-11-210 CI
Confession of Judgment

EXHIBIT D
PAGE 331 OF 5

DATED at Anchorage, Alaska this 25 day of April, 2014.


Matthew K. Avery

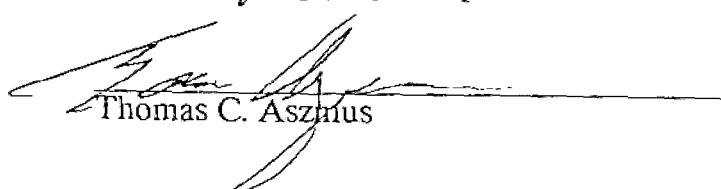
SUBSCRIBED AND SWORN to before me this 25th day of April, 2014.



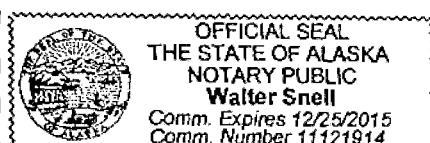

NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires:

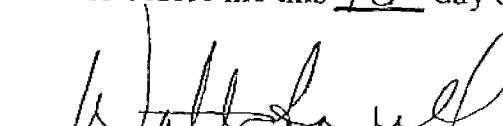
Plaintiff Thomas C. Aszmus hereby assents to entry of the above judgment

DATED at Anchorage, Alaska this 16th day of June, 2014.


Thomas C. Aszmus

SUBSCRIBED AND SWORN to before me this 16th day of June, 2014.




NOTARY PUBLIC IN AND FOR ALASKA
My Commission Expires: 12/25/2015

Aszmus v. Avery, Case No. 2KB-11-210 CI
Confession of Judgment

ORDER

IT IS SO ORDERED.

DATED at Kotzebue, Alaska this _____ day of April, 2014.

Paul A. Roetman, Superior Court Judge

CERTIFICATE OF SERVICE

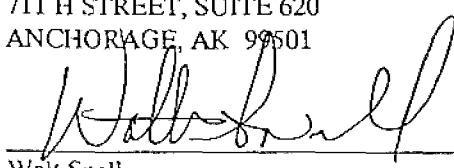
On this 16 day of April, 2014, a true
and correct copy of the foregoing document
was served on the following attorneys of record by:

Mail Fax Hand-Delivery

JAMES M. BOARDMAN, ESQ.
INGALDSON, MAASEN & FITZGERALD, P.C.
813 WEST 3RD AVENUE
ANCHORAGE, AK 99501

DAVID K. GROSS
BIRCH, HORTON, BITTNER & CHEROT
1127 W. 7TH AVENUE
ANCHORAGE, ALASKA 99501

JOHN B. THORSNESS
CLAPP, PETERSON, TIEMESSEN,
THORSNESS, & JOHNSON, PC
711 H STREET, SUITE 620
ANCHORAGE, AK 99501



Walt Snell

Aszmus v. Avery, Case No. 2KB-11-210 CI
Confession of Judgment

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
SECOND JUDICIAL DISTRICT AT KOTZEBUE

THOMAS C. ASZMUS,)
vs.)
Plaintiff,)
vs.)
MATTHEW K. AVERY,)
ALASKA INTERSTATE)
CONSTRUCTION, LLC)
Defendants.)

MATTHEW K. AVERY,)
vs.)
Third-Party Plaintiff,)
vs.)
YAMAHA MOTOR CORPORATION,)
USA., YAMAHA MOTOR)
MANUFACTURING CORPORATION)
OF AMERICA AND YAMAHA)
MOTOR CO., LTD.,)
Third-Party Defendants.)

JUN 27 2014

Case No. 2KB-11-210 CI

JUDGMENT PURSUANT TO CONFESSION

Pursuant to the Confession of Judgment After Action, judgment is hereby entered against Matthew K. Avery and in favor of Thomas C. Aszmus in the amount of \$3,581,371.85.

Interest on the judgment shall accrue at a rate of 3.75%. *Annually from March 31, 2014.*

Logged on 5/19/14

DATED at Kotzebue, Alaska this 24th day of June

P1 RT

Paul A. Roetman, Superior Court Judge

CERTIFICATE OF SERVICE

On this day of May, 2014, a true and correct copy of the foregoing document was served on the following attorneys of record by:

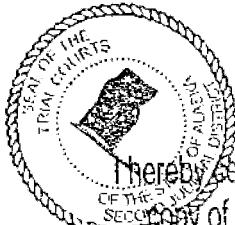
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Birch Horton Bittner & Cherot
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Anchorage, AK 99501

John B. Thorsness
Clapp, Peterson, Tiemessen, Thorsness &
Johnson, LLC
711 H Street, Suite 620
Anchorage, AK 99501

Walter Snell



I hereby certify that this is a true and correct copy of the original on file in my office.

ATTEST:
Clerk of the Trial Courts at Kotzebue

By KB
Deputy

6/25/14
Date

I certify that on 6/25/14
copies of this document were sent to: Marc W. June
CLERK KB
David K. Gross
James M. Boardman

Aszmus v. Avery; Case No. 2KB-11-210 CI
Judgment, Page 2 of 2